

FACT SHEET (06ZQ) PREPARED FOR SING CHIA

DATE: 9/23/2010

TOPIC: Current Enforcement Activities At The San Jacinto River Waste Pits Site

BACKGROUND

The UAO, dated 11/20/2009 describes the site as being in Harris County in the State of Texas. The Site itself has no specific street address. The Site is comprised of an area of land and an area of the San Jacinto River bottom, i.e., river sediment that is contaminated with certain hazardous materials from released waste paper mill sludge. The Site is located in an area where the Interstate Highway 10 Bridge crosses over the San Jacinto River, east of the City of Houston between two unincorporated areas known as Channelview and Highlands.

The Site includes an abandoned 20-acre tract of land ("Tract") consisting of three waste ponds containing hazardous substances partially submerged in the San Jacinto River as well as wherever those hazardous substances have been deposited, placed, or otherwise come to be located. The Tract is bounded on the south by Interstate Highway 10, on the east by the San Jacinto River main channel, and on the north and west by shallow water off the River's main channel.

A recorded warranty deed documents that on 8/3/1965 Virgil C. McGinnes Trustee, became the Tract's owner of record. Virgil C. McGinnes Trustee remains the Tract's current owner of record. Mr. McGinnes is now deceased. Prior to his death, and during the time hazardous substances were disposed at the Site, Mr. McGinnes had been an officer, director, and major shareholder of McGinnes Industrial Maintenance Corporation (MIMC).

MIMC was formed on 9/3/1965. Ten days later, MIMC acquired the assignment of an exclusive waste disposal contract to dispose of waste from the Champion Papers, Inc (Champion) paper mill in Pasadena, Texas., MIMC removed waste materials from the Champion plant, transported the paper waste materials by MIMC barges, and unloaded the waste into ponds surrounded by levees at the Tract from 9/13/1965 through 5/6/1966.

NOTE - Nowhere in the UAO's Site description is any reference to impoundments, i.e., waste ponds, on land located south side of I-10.

CURRENT STATUS

Currently the potentially responsible parties are MIMC and International Paper Company (IPC). Both PRPs are jointly conducting a Time Critical Removal Action (TCRA) under an EPA Administrative Order on Consent (5/17/2010) and a Remedial Investigation/Feasibility Study (RI/FS) under an EPA Unilateral Administrative Order (11/20/2009). However, see dated activities under below heading of "Current Communications And Enforcement Activities."

Due to the unique location of the Site within an area subject to frequent dredging, since 11/1/2009 a specific permits evaluation process in an area around the Site was implemented by EPA, U.S. Army Corps of Engineers, and State of Texas, as part of an overall watershed management solution.

RPM plans to look into dioxin fingerprinting as a third line of evidence for the Site in order to identify existing dioxin as paper mill related dioxin (the other lines of evidence are: fate & transport modeling and dioxin TEQ levels).

Currently the Enforcement Officer is confirming the existence and locations of former and existing paper mills and locations of their outfalls in the areas of the Houston Ship Channel and the Galveston Bay watershed.

Site team is working with the following agencies and local governments on the cleanup process for this Site:

- Federal and State Natural Resource Trustees: National Oceanic and Atmospheric Administration, U.S. Fish & Wildlife Service, Texas Commission on Environmental Quality, Texas Parks and Wildlife Department, Texas General Land Office.
- Coordination Partners: U.S. Army Corps of Engineers, Agency for Toxic Substances and Disease Registry, Texas Department of State Health Services, Texas Department of Transportation, Harris County, Port of Houston Authority, Houston-Galveston Area Council

CURRENT COMMUNICATIONS AND ENFORCEMENT ACTIVITIES

- 8/26/2010** Concerning the UAO, via email RPM requested PRPs to revised the RI/FS Work Plan, § 6.1.8 Soil Investigation to reflect that “USEPA has information that indicates an additional impoundment is located south of I-10. This information indicates the additional impoundment contains material similar to that disposed of in the two impoundments located north of I-10. Surface and subsurface soil samples will be taken in and around these impoundments to determine the nature and extent of any actual or threatened releases.”
- 9/10/2010** Concerning the UAO, Site RPM/attorney received letter notification from MIMC that it denies any responsibility for the additional impoundment south of I-10 and contends that the area south of I-10 where the impoundment may be located is a separate “facility” or “Site” under CERCLA. In summary, this letter documents that MIMC declines to participate in the sampling activity south of I-10 under the UAO.
- 9/10/2010** Concerning the AOC, Site RPM/attorney received letter notification from MIMC advising that it objects to EPA’s decision requiring a cover that can withstand a 100-year storm event so as to temporarily abate a possible release of dioxin from the waste ponds on the Tract, i.e., MIMC feels that this constitutes a long term remedy rather than a temporary abatement. Letter further advises that, contingent upon resolution of this matter, MIMC intends to timely submit a time critical removal action (TCRA) work plan to EPA as required by the AOC.
- 9/13/2010** Concerning the UAO, Site RPM/attorney received emailed letter notification from IPC that it does not join in the position stated in MIMC’s 9/10/2010 letter that MIMC was not involved in the disposal of waste into or from the impoundments located north of I-10. IPC feels that at this time it is premature to conclude that MIMC has no liability associated with the impoundment south of I-10.

The letter further states that IPC does not regard there to be a credible technical basis for requiring additional sampling with respect to the additional impoundment located south of I-10 under the UAO.

EO’s interprets the IPC letter to mean that, although IPC doesn’t think there is a basis to warrant sampling of the southern impoundment, IPC has not provided EPA with a documented refusal to participate in the sampling activity south of I-10 under the UAO.

- 9/17/2010** Concerning the AOC, Site Attorney prepared a letter in response to MIMC's 9/10/2010 letter, advising MIMC that EPA's recommended cover that can withstand a 100-year storm event so as to temporarily abate a possible release of dioxin from the waste ponds on the Tract is appropriate for the removal action at the Tract.
- 9/23/2010** Concerning the UAO, Enforcement officer and Site attorney will review documents currently in EPA's possession that might implicate MIMC and/or IPC to the impoundment located south of I-10.

CONTACTS

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